

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



July 31, 2003

TO: PARTIES OF RECORD IN INVESTIGATION 03-05-011

This proceeding was filed on May 8, 2003, and is assigned to Commissioner Loretta Lynch and Administrative Law Judge (ALJ) Maribeth Bushey. This is the decision of the Presiding Officer, ALJ Bushey.

Any party to this adjudicatory proceeding may file and serve an Appeal of the Presiding Officer's Decision within 30 days of the date of issuance (i.e., the date of mailing) of this decision. In addition, any Commissioner may request review of the Presiding Officer's Decision by filing and serving a Request for Review within 30 days of the date of issuance.

Appeals and Requests for Review must set forth specifically the grounds on which the appellant or requestor believes the Presiding Officer's Decision to be unlawful or erroneous. The purpose of an Appeal or Request for Review is to alert the Commission to a potential error, so that the error may be corrected expeditiously by the Commission. Vague assertions as to the record or the law, without citation, may be accorded little weight.

Appeals and Requests for Review must be served on all parties and accompanied by a certificate of service. Any party may file and serve a Response to an Appeal or Request for Review no later than 15 days after the date the Appeal or Request for Review was filed. In cases of multiple Appeals or Requests for Review, the Response may be to all such filings and may be filed 15 days after the last such Appeal or Request for Review was filed. Replies to Responses are not permitted. (See, generally, Rule 8.2 of the Commission's Rules of Practice and Procedure.)

If no Appeal or Request for Review is filed within 30 days of the date of issuance of the Presiding Officer's Decision, the decision shall become the decision of the Commission. In this event, the Commission will designate a decision number and advise the parties by letter that the Presiding Officer's Decision has become the Commission's decision.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

ANG:hkr
Attachment

PRESIDING OFFICER'S DECISION (Mailed 7/31/2003)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Order Instituting
Investigation into the operations and practices of
Bill Dennis and Gloria Dennis a Partnership
doing business as Tour Designs,

Investigation 03-05-011
(Filed May 8, 2003)

Respondents.

Scott Laird, Attorney at Law, for Bill and Gloria Dennis,
respondent.

Hooman Rowshan, Attorney at Law, for Consumer Protection
and Safety Division of CPUC.

**OPINION DENYING REQUEST FOR CHARTER-PARTY AUTHORITY,
IMPOSING FINE, AND ORDERING REIMBURSEMENT
OF COMMISSION INVESTIGATION COSTS**

Summary

This decision finds that Bill Dennis and Gloria Dennis, a partnership doing business as Tour Designs (Tour Designs), has violated numerous sections of the Public Utilities Code and Commission regulations regarding intrastate passenger carrier transportation by, among other things, conducting operations after expiration of its permit, falsifying driver records, and failing to enroll all drivers in the Department of Motor Vehicles (DMV) Pull Notice Program.¹ The

¹ As provided in Vehicle Code § 1808.1, the DMV Pull Notice Program provides employers of commercial drivers with reports on the driver's current record and

Footnote continued on next page

Commission finds that Tour Designs' currently pending request for Class B Charter-Party Carrier operating authority should be denied with prejudice to filing within 365 days of the effective date of this decision, and that Tour Designs should pay a fine of \$10,200 as well as reimburse the Commission for its investigation costs of \$8,633.21.

Background

Tour Designs obtained a Class B Charter-Party Carrier Certificate on November 19, 1999. As provided in § 5376,² that permit expired effective November 19, 2002. Tour Designs filed a renewal application on November 12, 2002, but the renewal application did not include the required California Highway Patrol (CHP) inspection report. Consequently, Commission staff could not process the renewal application before the 1999 permit expired. Staff informed Tour Designs of the expiration by letter on November 20, 2002, and sent additional cease and desist letters in January 2003.

On December 30, 2002, the Commission staff received the results of Tour Designs' CHP inspection. CHP found Tour Designs to be "unsatisfactory" and recommended denial of the renewal request. CHP found that Tour Designs had maintenance program violations, that it was not in compliance with the DMV Pull Notice Program, and that drivers' logs had been falsified.

notifies the employer of subsequent convictions, failure to appear, accidents, or license suspensions.

² All citations are to the Public Utilities Code unless otherwise indicated.

On May 8, 2003, the Commission issued Order Instituting Investigation (OII) 03-05-011. (The specific allegations in the OII are reproduced in Attachment A.) In summary, the OII alleged that Tour Designs had:

1. Operated after expiration of certificate by conducting intrastate passenger operations, including such operations on April 3 and 4, 2003 as observed by the California Highway Patrol.
2. Falsified driver records, as found during a November 7, 2002, CHP terminal inspection of Tour Designs' Tulare Terminal. Among other violations, the CHP Safety Compliance Report noted Tour Designs allowed or required a driver to drive after being on duty for 15 hours, in violation of 13 CCR Section 1212.5(1)(b), and Tour Designs allowed or required its drivers to submit falsified driver logs, a violation of 13 CCR Section 1234(a).
3. Failed to enroll seven drivers in the DMV Pull Notice Program.
4. Falsified a CHP Inspection Report, by altering the date on a CHP inspection report dated November 26, 2001, indicating it was rated as "Satisfactory" as of November 8, 2002, and submitted the altered form to Tour Designs' insurance company in an attempt to mislead the insurance company into believing that Tour Designs' current rating from CHP was "satisfactory" when it was "Unsatisfactory."
5. Illegally displayed PUC identification after expiration of its passenger operating authority.

In the OII, the Commission also ordered Tour Designs to comply with all applicable laws, and placed Tour Designs on notice that its permit renewal could be denied, and it could be subject to fines and other sanctions. The OII also stated that a public evidentiary hearing would be held at a time and place to be scheduled.

The assigned Administrative Law Judge (ALJ) convened the evidentiary hearing on May 27, 2003. Prior to the hearing, the parties submitted a factual stipulation and prehearing conference statements setting out the remaining

issues. The parties presented their witnesses during the one-day hearing, and respective counsel presented closing statements in lieu of briefs. The case was submitted for Commission consideration on May 27, 2003.

Evidence Presented

All factual issues related to the alleged violations set out in the OII were resolved in the factual stipulation, with Tour Designs admitting the violations. The parties stipulated that Tour Designs had been repeatedly informed that its intrastate operating authority had expired, that it allowed drivers to drive or be on duty for more than 15 hours, and that drivers submitted falsified logs. The parties further stipulated that Tour Designs had received an unsatisfactory rating from CHP in 2002, provided false information to staff on at least two occasions, continued to provide intrastate transportation services after expiration of its permit, and violated a temporary restraining order issued by the Superior Court of Tulare County. In total, the parties stipulated to 96 violations of applicable law.

At hearing, Tour Designs presented four witnesses to explain the circumstances that led to the violations, and to present evidence in mitigation of sanctions. Bill Dennis testified that his business has provided safe and well-priced transportation services for three years, and that the business was growing each year with highly satisfied customers. Dennis stated that due to administrative oversight and lack of familiarity with the application procedures, he did not submit the required renewal application in a timely manner. Because he had made contractual commitments to his customers, he continued to provide services. He also stated that he promptly remedied all deficiencies noted by the CHP, and that since ceasing to provide intrastate service he has lost about \$225,000 in business. Delores Louise Jensen and Linda

Jo Palermo, Tour Designs customers, testified that they were very happy with Tour Designs' service, and asked that the Commission restore Tour Designs' operating authority. John Ohanian testified about regulatory compliance advice he would give to Tour Designs.

The Commission's Consumer Protection and Safety Division (CPSD) relied on the factual stipulation to make its case, and also presented a declaration from Edward Rouquette that the costs of this investigation to the Commission were \$8,633.21.

Issues to be Resolved

The parties also agreed that the outstanding issues for resolution by the Commission are:

1. Should the Commission grant Tour Designs' pending application for a Class B Charter-Party Carrier operating authority?
2. Should this Carrier be granted a probationary certificate of authority? If yes, what should be the terms and conditions of probation, including the duration of any conditional operating authority?
3. Should Tour Designs be required to reimburse CPSD for the reasonable costs of its investigation?
4. Should this Carrier be subject to fines and penalties? If yes, what should be the amount of any assessed fines and penalties?

Discussion

We will follow the parties' stipulated list of issues to be resolved in this proceeding, and address each issue in turn.

A. Charter-Party Application

As noted above, the Commission previously granted Tour Designs Charter-Party Carrier Permit, Class B Certificate No. TCP 12910-B, and that

permit expired in November 2002. We, thus, evaluate Tour Designs' new application pursuant to § 5379, which applies to new applications by previous permit holders. That section provides that the Commission may grant or deny an application for a new Charter-Party Carrier Permit whenever the Commission finds, after hearing, that as a prior permit holder, the applicant engaged in any of the unlawful activities specified in § 5378 for which the permit might have been canceled or revoked.

Among the unlawful activities listed in § 5378 are violations of the applicable provisions of the Public Utilities Code, violations of a Commission rule or order, and repeated violations of the Vehicle Code. As set out above, Tour Designs has stipulated to numerous such violations.

In deciding whether to grant or deny Tour Designs' permit application pursuant to § 5379, the Commission considers the standards for granting an initial permit found in § 5375:

“If the commission finds that public convenience and necessity require the proposed transportation service and the applicant possess satisfactory fitness and financial responsibility to initiate and conduct the proposed transportation services, and will faithfully comply with the rules and regulations adopted by the commission with respect thereto, it shall issue the permit or certificate to conduct the requested operations, or may issue it for the partial exercise of the privilege sought, and may attach to the permit or certificate such terms and conditions as, in its judgment, are required in the public interest;”

The record shows that this applicant admitted to 96 violations of applicable law and regulations, including several instances of making affirmative misrepresentations of fact to our staff. Such misrepresentations reflect a lack of respect for this Commission and its duties to the public, as well as substantially undermining the Tour Designs' credibility. Moreover, Tour

Designs' admitted alteration of a CHP inspection certificate and attempt to use it to obtain insurance coverage shows a pattern of duplicitous conduct in lieu of compliance with applicable law and regulation.

The record also shows that schools and church groups are among Tour Designs' frequent customers. When parents entrust the transportation of their children and young people to a firm licensed by this Commission, those parents expect complete compliance with all requirements, especially safety requirements. Tour Designs has not demonstrated an ability or willingness to meet these requirements.

Based on the record in this proceeding, we are unable to conclude that Tour Designs will faithfully comply with the applicable law and regulations and, consequently, that Tour Designs possesses the necessary fitness to provide charter-party carrier services to the public. We, therefore, deny Tour Designs' request for Charter-Party Carrier Authority. Our denial shall be with prejudice to filing a new application within 365 days of the effective date of this order. This will allow Tour Designs a year to demonstrate an ability and willingness to comply with applicable law.³

B. Reimbursement of Costs⁴

Pursuant to § 5413.5, the Commission may "assess the person or corporation an amount sufficient to cover the reasonable expense of investigation incurred" by the Commission. CPSD offered evidence that the

³ The record shows that Tour Designs continues to provide interstate transportation services, which are not regulated by this Commission.

⁴ Due to our denial of the Charter-Party Carrier Permit, we need not address the parties' second issue—whether any limitations should be imposed on the permit.

Commission incurred \$8,633.21 in expenses related to its investigation of Tour Designs. Tour Designs did not object to the tabulation of the expenses but challenged the Commission's authority to collect such amounts. As provided in § 5413.5, the Commission is authorized to order reimbursement of the costs of investigations. The Commission's general enforcement authority is also sufficient to support such an order. (See, e.g., Communications TeleSystems International, (1997) 72 CPUC 2d 621, 639 (Decision (D.) 97-05-089).) Therefore, we find that Tour Designs should reimburse the Commission for \$8,633.21 in costs of the investigation. Tour Designs shall remit such amount no later than 120 days after the effective date of this order.

C. Fines

In the OII, we indicated that we would consider imposing fines on Tour Designs as provided in §§ 5411- 5420. Each violation and potential fine listed in the OII is reproduced in Attachment B. At the hearing, CPSD recommended assessing a fine but did not specify an amount. Tour Designs opposed any fine, indicating that it has already incurred over \$225,000 in gross financial losses.

Based on the record in this proceeding, we conclude that additional sanctions in the form of a fine are necessary to achieve our goal of deterring further violations of law and regulations by this carrier and others. To provide guidance in setting fines, the Commission has distilled the principles that it has historically relied upon in assessing fines and restated them such that they may form the basis for future decisions. (Rulemaking to Establish Rules for Enforcement of the Standards of Conduct Governing Relationships between Energy Utilities and Their Affiliates Adopted by the Commission in Decision 97-12-088, D.98-12-075, App. B.) Those principles begin by stating that

the purpose of fines is to deter further violations. In determining whether to impose a fine and, if so, at what level, the Commission will consider the severity of the offense, the carrier's conduct, the financial resources of the carrier, the totality of circumstances in furtherance of the public interest, and the role of precedent.

Turning to the first factor for deciding whether to impose a fine and, if so, for what amount, the severity of the offense includes consideration of the economic harm imposed as well as the economic benefit gained. Here, the factual stipulation specifies at least 63 instances where Tour Designs provided intrastate charter-party carrier service after suspension of its operating authority. Although Tour Designs makes much of the contracts it lost due to the suspension, as CPSD correctly pointed out, Tour Designs had no right to provide these services. Consequently, we cannot conclude that Tour Designs has disgorged all benefits of its unauthorized operations. We note, however, that no customers have submitted complaints, and there is no evidence in the record that customers incurred economic harm from the unauthorized operations. The severity of the offense also includes consideration of the effects of disregarding a Commission order because compliance is essential to the proper functioning of the regulatory process. In this case, the facts show that respondent disregarded Commission staff directives to cease operations and made misstatements of fact to investigating staff. These are serious violations that were intended to and did obstruct us in performing our oversight duties for charter-party carriers.

The next factor is the charter-party carrier's efforts to prevent, detect, and rectify the violation. In this case, Tour Designs did not prevent the violation and took several months to realize the seriousness of the matter. In

mitigation, Tour Designs pointed out that it promptly rectified all safety issues identified by CHP in its inspection.

The next factor is the financial resources of the utility. The record shows that Tour Designs' net income for 2002 was about \$100,000. We conclude that Tour Designs is a modest business with limited financial resources.

The role of precedent is also important in our consideration of imposing a fine. Here, neither party has provided a citation to any comparable decision. We note, however, in A Touch of Class Limousine, D.89-04-078, the Commission imposed a fine of \$2,000 for two days of unauthorized provision of charter-party carrier services.

The final factor is the totality of the circumstances in furtherance of the public interest. The public interest is best served by charter-party carriers that comply with applicable law and regulations. Where violations do occur, prompt remedial actions are required. The totality of the circumstances in this case includes the fact that Tour Designs is a novice with regard to applying for a renewal of its permit. Tour Designs received its first Charter-Party Carrier Permit on November 19, 1999. Pursuant to § 5376, that permit expired three years later, on November 19, 2002. Tour Designs' witnesses testified that it was this inexperience with the renewal process that resulted in failure to successfully renew the permit. The ensuing suspension then set the stage for the subsequent cascade of violations that led to the OII.

While we are persuaded that Tour Designs' renewal difficulties played a substantial role in the noncompliance, we also point out that Tour Designs made an extended series of poor choices in failing to appreciate the need to comply with the cease and desist orders.

In sum, we find that Tour Designs engaged in serious violations of the laws applicable to charter-party carriers. In mitigation, we recognize that Tour Designs is a modest business and was inexperienced with our processes.

Pursuant to § 5413.5, the Commission may assess a fine of up to \$5,000 each time a person operates as a charter-party carrier without a valid permit.⁵ Each violation is a separate offense. (§ 5415.) Thus, the Commission could impose a fine of up to \$5,000 for each of the 63 contracts tallied in the factual stipulation. We decline to impose this level of fine. We find that operating a charter-party carrier after suspension is a serious offense, but the maximum potential fine would be disproportionate for a modest business such as Tour Designs. In mitigation, we will also accept Tour Designs' contention that all the violations flow from one cause—failing to renew the permit. Accordingly, we will impose the maximum fine allowed by § 5413.5 of \$5,000 per offense, but for only one offense, with a resulting total of \$5,000.

For the remaining offenses listed in Attachment B, we assess fines pursuant to § 5413, which provides for a maximum fine of \$1,000. We will impose the maximum fine for falsification of driver records, \$1,000, and falsification of the CHP report, two violations⁶ for \$2,000, with a total of \$3,000.

⁵ The OII mistakenly indicated that the maximum fine is \$1,000, apparently relying on § 5413. As § 5413.5 applies specifically where a person “is operating as a charter-party carrier of passengers without a valid certificate or permit,” we will rely on § 5413.5.

⁶ Among the violations and potential fines in the OII, and reproduced in Attachment B to today's decision, CPSD listed three violations attributed to the CHP certificate. CPSD counted three violations by contending that failure to have a valid CHP certificate violated subsections 4.02, 5.02, and 6.01 of General Order 157-C. Subsection 5.02, however, relates to failure to have drivers enrolled in the DMV pull notice

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We impose the maximum fines for these offenses due to the vital role that truthfulness plays in our regulatory process.

A similar outcome but with a different rationale occurs with regard to the safety violations. CPSD alleged that Tour Designs allowed a driver to be on duty for more than 15 hours, and failed to enroll seven drivers in the DMV Pull Notice Program. Tour Designs admitted committing these violations. These violations have a direct impact on the safety of Tour Designs' passengers, which often included school children. We accord such violations the highest level of severity and impose a fine of \$1,000, the highest level of fine allowed pursuant to § 5413, for each instance. We will, however, count the Pull Notice as one violation because CPSD has not presented any evidence that Tour Designs made seven separate decisions not to register its drivers but rather one action in not registering all drivers.

CPSD also alleged and Tour Designs admitted that it failed to remove its TCP number from all vehicles upon termination of its certificate. While this is a violation of § 5385, with a potential fine of \$1,000, we do not find this to be a serious violation and will assess a fine of \$200.

The total of all fines is \$10,200. We find that this total is a sufficient sum to draw the attention of a business the size of Tour Designs to the absolute need to be aware of and comply fully with applicable regulations. Our purpose in imposing this fine is to emphasize the seriousness of the series of events that led to this proceeding. We also believe that such a fine is necessary to achieve our goal of deterring future violations by this carrier and others.

program. CPSD separately included that item on the OII list (see item 3 in Attachment B), so it should not have been included again in CHP violations.

Accordingly, pursuant to §§ 5413, 5413.5, and 5419, Tour Designs is ordered to pay to the California State Treasury to the credit of the General Fund the sum of \$10,200 no later than 120 days from the effective date of this order. Tour Designs shall file with the Commission proof of such payment no later than 10 days after the payment.

Need for Hearing, Categorization, and Presiding Officer

We make no changes to the need for hearing and categorization determinations in the OII. Loretta M. Lynch is the Assigned Commissioner and Maribeth A. Bushey is the assigned ALJ in this proceeding. We also designate the assigned ALJ, Maribeth A. Bushey, the Presiding Officer.

Findings of Fact

1. Tour Designs obtained a Class B Charter-Party Carrier Certificate on November 19, 1999, which expired on November 19, 2002.
2. Tour Designs filed a renewal application on November 12, 2002, but it did not include the required CHP report so Commission staff could not process it.
3. Commission staff informed Tour Designs that its Charter-Party Carrier Certificate had expired.
4. CHP inspected Tour Designs' operation and found it to be "unsatisfactory."
5. The Commission opened a formal investigation into Tour Designs and included the list of alleged violations of law set out in Attachment A.
6. Tour Designs and CPSD presented a joint factual stipulation whereby Tour Designs admitted to 96 violations of applicable law and regulations, including providing charter-party services after expiration of its permit,

falsification of a driver log and a CHP report, and failure to enroll its drivers in the DMV Pull Notice Program.

7. Tour Designs provides transportation services to schools, churches, and youth sports teams, among others.

8. Tour Designs presented evidence that this was its first attempt at renewing its Charter-Party Carrier Permit, that its customers were highly satisfied with its services, that it had lost substantial amounts of business, and that it would seek out competent regulatory compliance advice.

9. Tour Designs has not demonstrated that it is currently fit to operate a Charter-Party Carrier service in this state.

10. Bill Dennis' factual misrepresentations to staff and falsification of the CHP certificate substantially undermine his credibility as a witness and as a managing partner in Tour Designs.

11. The Commission incurred costs of \$8,633.21 for this investigation.

12. A fine is necessary to achieve our goal of deterring future violations by this carrier and others.

13. Tour Designs has not disgorged all benefits of its unauthorized operations.

14. Tour Designs' violations are serious.

15. Tour Designs did not prevent or detect its violations of Commission requirements. Tour Designs did promptly rectify its violations of CHP regulations.

16. Tour Designs is a modest business with limited financial resources.

17. The totality of the circumstances in this case includes inexperience with our renewal process and a series of actions disregarding the consequences of permit expiration.

Conclusions of Law

1. To grant a Charter-Party Carrier Permit, the Commission must find, among other things, that the applicant possesses the necessary “fitness” and will “faithfully comply with the rules and regulations adopted by the commission.”
2. The Commission should deny Tour Designs’ request for a Charter-Party Carrier Permit.
3. The Commission has the authority pursuant to § 5413.5, and its general enforcement authority, to order Tour Designs to reimburse the Commission for the reasonable costs of this investigation.
4. The facts of D.89-04-078 are distinguishable from this case.
5. Pursuant to § 5413.5, we may impose a fine of up to \$5,000 for each instance of providing charter-party carrier service without valid authorization. Tour Designs’ provision of carrier services after expiration of its permit constitutes provision of service without valid authorization.
6. Tour Designs should be fined \$5,000 for providing carrier services after expiration of its permit.
7. Pursuant to § 5413, Tour Designs should be fined \$1,000 for falsifying a driver record, \$2,000 for violations related to the falsified CHP report, \$1,000 for allowing a driver to be on duty for more than 15 hours, \$1,000 for failing to enroll its drivers in the DMV Pull Notice Program, and \$200 for failing to remove its TCP number after suspension.
8. Today’s Order should be made effective immediately.

O R D E R

Therefore, **IT IS ORDERED** that:

1. The Charter-Party Carrier Permit application of Bill Dennis and Gloria Dennis a Partnership doing business as Tour Designs (Tour Designs) is denied with prejudice to filing again within 365 days of the effective date of this order.

2. The filing prohibition found in Ordering Paragraph 1 shall apply to all Charter-Party Carrier applications in which Bill Dennis, Gloria Dennis, or any entity controlled by them has a direct or indirect financial or management interest. Should any close family member of either Bill Dennis or Gloria Dennis seek a Charter-Party Carrier Permit, such family member shall disclose the relationship in the application.

3. Within 120 days of the date of this order, Tour Designs shall pay a fine of \$10,200, as calculated pursuant to Conclusions of Law 6 and 7. Tour Designs shall pay the fine by tendering to the Commission's Fiscal Office a check in the amount of \$10,200, made payable to the Public Utilities Commission, for deposit to the State's General Fund.

4. Tour Designs, Bill Dennis, and Gloria Dennis shall comply with all applicable law and regulations for Charter-Party Carriers.

5. Within 120 days of the date of this order, Tour Designs shall reimburse the Commission for its reasonable costs of this investigation in the amount of \$8,633.21 by tendering to the Commission's Fiscal Office a check in that amount made payable to the Public Utilities Commission.

6. Any application by Tour Designs, Bill Dennis, Gloria Dennis, or any entity controlled by them for any authority from this Commission shall include proof of compliance with Ordering Paragraphs 3, 4, and 5.

7. The Executive Director shall serve a copy of this decision on the Federal Motor Carrier Safety Administration.

8. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

CPSD's Allegations

CPSD alleged that Tour Designs had violated:

1. Public Utilities Code (PUC) section 5379 by conducting passenger charter party operations after termination of its Class B Charter Party Certificate (TCP 12910-B);
2. PUC section 5381, 13 CCR section 1234(a), and General Order 157-C, Part 5.01, by permitting falsification of driver records;
3. PUC section 5381, 13 CCR section 1212.5(1)(b), and General Order 157-C, Part 5.01, by allowing or requiring a driver to drive after being on duty for 15 hours;
4. PUC section 5381, CVC section 1808.1, and General Order 157-C, Part 5.02, by failing to enroll all drivers in the DMV Pull Notice Program;
5. PUC sections 5374, 5375, 5378.1, 5381, and General Order 157-C, Parts 4.02, Safety Requirements Before Operation, 5.02, Driver Record, 6.01, Charter Party Records, by falsifying or altering information contained in its CHP Terminal Inspection Report;
6. PUC section 5385, and General Order 157-C, Part 4.08, by failing to immediately remove its TCP number from all vehicles upon termination of its Certificate.

(END OF ATTACHMENT A)

ATTACHMENT B
CPSD's Calculation of Potential Fines

CPSD's investigation specifically alleged over 96 violations of the Public Utilities Code (PUC), the California Vehicle Code, Title 13 of the California Code of Regulations, General Order 157-C, and other Commission rules and regulations. CPSD apparently calculated the potential fines based on PUC Section 5413, which provides for a maximum fine of \$1,000. As noted in today's decision, however, PUC Section 5413.5 applies specifically to providing service without a valid permit and provides for a \$5,000 maximum fine. We reproduce here CPSD's calculation of the potential fine:

1. Conducting operations as a charter-party carrier of passengers after expiration of its certificate. CPSD alleged 83 violations of PUC Section 5379, each offense involving a \$1,000 fine, which would result in a total potential fine of \$83,000;
2. Failing to ensure accuracy of entries in its drivers' logbooks and permitting falsification of driver records. CPSD alleges one violation of PUC Section 5381, 13 CCR Section 1234(a) and General Order 157-C, Part 5.01, subject to a \$1,000 fine;
3. Allowing or requiring a driver to drive after being on duty for 15 hours. CPSD alleges one violation of PUC Section 5381, 13 CCR Section 1212.5(1)(b), CVC Section 1808.1, and General Order 157-C, Part 5.01, subject to a \$1,000 fine;
4. Failing to enroll all drivers in the DMV Pull Notice Program. CPSD alleges seven violations of PUC Section 5381, CVC Section 1808.1, and General Order 157-C, Part 5.02, each offense subject to a \$1,000 fine, or a total potential fine of \$7,000;
5. Falsifying information, by altering the date on a prior year CHP terminal inspection report and submitting to an insurance company in an attempt to mislead the insurance company as to

Tour Designs' current CHP terminal rating. The CHP Carrier Inspection Report dated November 7, 2002, indicated an "Unsatisfactory" Rating. The CHP may recommend denial of a passenger charter-party carrier application for operating authority from the Commission pursuant to Public Utilities Code Section 5378.6. CPSD alleges a violation of PUC Section 5381, General Order 157-C, Parts 4.02, 5.02, and 6.01; each offense is subject to a \$1,000 fine, resulting in a total potential fine of \$3,000. These violations raise fitness issues as described in PUC Sections 5374 and 5375;

6. Failing to remove its TCP number from all vehicles upon termination of its certificate. CPSD alleges a violation of PUC Section 5385, and General Order 157-C, Part 4.08, resulting in a potential fine of \$1,000.

(END OF ATTACHMENT B)